

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

KEITH DAVID WILSON, Plaintiff, vs. JOHN A. DOE, in his/her individual and official capacity, Defendant.	4:19-CV-04197-KES ORDER DIRECTING PLAINTIFF TO IDENTIFY JOHN A. DOE
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The only remaining defendant in this lawsuit is John A. Doe. The scheduling order set a deadline of September 11, 2020, for the parties to join additional parties and to amend pleadings. Docket 20. That deadline has passed. The true identity of John A. Doe has not been identified and he/she has not been served with the summons and complaint.

Federal courts cannot exercise personal jurisdiction over a defendant without proper service of process. *Omni Capital Int'l, Ltd. v. Rudolf Wolff & Co.*, 484 U.S. 97, 104 (1987). As a result, a district court has the power to dismiss a defendant for failure to comply with its rules. *Marshall v. Warwick*, 155 F.3d 1027, 1029 (8th Cir.1998). “If a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. ” Fed. R.

Civ. P. 4(m). The court must extend the time for service for an appropriate period if the plaintiff shows good cause for the failure. *Id.*

Thus, it is

ORDERED that plaintiff identify John A. Doe and serve him/her with the complaint by September 6, 2021, or this action will be dismissed without prejudice against John Doe.

DATED this 6th day of August, 2021.

BY THE COURT:

/s/ Karen E. Schreier

KAREN E. SCHREIER
UNITED STATES DISTRICT JUDGE